

15927. Adulteration and misbranding of butter. U. S. v. 8 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 22917. I. S. No. 24291-x. S. No. 929.)

On July 2, 1928, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 8 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Austin Dairy Products, from Austin, Minn., on or about June 28, 1928, and had been transported from the State of Minnesota into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article.

On July 18, 1928, the Austin Dairy Products, Austin, Minn., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$300, conditioned in part that it be reprocessed and reworked so that it contain at least 80 per cent of butterfat. On September 5, 1928, an amended decree was entered ordering that the product be released to Fred D. Oetjen, New York, N. Y., for the purpose of exporting the same under the supervision of this department, that the product should not under any circumstances whatever be exported until the United States Department of Agriculture, through its designated inspector, or other representative, shall have had free access thereto at the factory in the city of New York of Fred D. Oetjen in order to make whatever examination and tests it may desire and shall have released said butter for export.

ARTHUR M. HYDE, *Secretary of Agriculture.*

15928. Adulteration of canned cherries. U. S. v. 14 Cases of Red Sour Cherries. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 22676. I. S. No. 18003-x. S. No. 718.)

On March 29, 1928, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 14 cases of pitted red sour cherries at Birmingham, Ala., alleging that the article had been shipped by the Grand Traverse Packing Co., from Traverse City, Mich., August 31, 1926, and transported from the State of Michigan into the State of Alabama, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Zeneda Brand Pitted Red Sour Cherries * * * Packed by Grand Traverse Co., Traverse City, Mich."

It was alleged in the libel that the article was adulterated in that it consisted wholly or in part of a filthy, decomposed, putrid vegetable substance.

On July 3, 1928, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

15929. Adulteration and misbranding of black pepper. U. S. v. 15 Cases, et al., of Black Pepper. Product adjudged adulterated and misbranded and ordered released under bond to be relabeled. (F. & D. Nos. 22627, 22629. I. S. Nos. 23200-x, 23211-x. S. Nos. 660, 666.)

On March 12, 1928, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 35 cases of black pepper at McAlester, Okla., alleging that the article had been shipped by the Biston Coffee Co., from St. Louis, Mo., in two consignments, on or about October 31, 1927, and January 18, 1928, respectively, and transported from the State of Missouri into the State of Oklahoma, and charging adulteration and misbranding in violation of the food and drugs act. A portion of the article was labeled in part: (Cans) "Polar Bear Brand Black Pepper, Net Weight One Pound." The remainder of the said article was

labeled in part: (Cans) "Polar Bear Brand One-half Pound Net Weight Ground Black Pepper."

It was alleged in the libel that the article was adulterated in that cornstarch, with respect to a portion of the product, and cornstarch and ground rice, with respect to the remainder thereof, had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength and had been substituted wholly or in part for the said article. Adulteration was alleged with respect to a portion of the said article for the further reason that the said cornstarch and ground rice, substituted wholly or in part for the said article, had been mixed therewith in a manner whereby damage or inferiority was concealed.

Misbranding was alleged for the reason that the designations on the labels, to wit, "Black Pepper" and "Ground Black Pepper," were false and misleading and deceived and misled the purchaser, and for the further reason that the article was sold or offered for sale under the distinctive name of another article.

On June 25, 1928, the Biston Coffee Co., St. Louis, Mo., having appeared as claimant for the property, judgment of the court was entered finding the product adulterated and misbranded, and it was ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings, pursuant to the terms of a bond in the sum of \$604, conditioned in part that it be relabeled under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

15930. Misbranding of Flavonut. U. S. v. 25 Cases of Flavonut. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 22605. I. S. No. 22001-x. S. No. 615.)

On March 9, 1928, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 25 cases of Flavonut, remaining in the original unbroken packages at Denver, Colo., consigned by the Ed. S. Vail Butterine Co., Chicago, Ill., alleging that the article had been shipped from Chicago, Ill., on or about February 21, 1928, and transported from the State of Illinois into the State of Colorado, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Packages) "One Lb. Flavonut."

It was alleged in the libel that the article was misbranded in that the statement "1 Lb.," borne on the label, was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 21, 1928, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be repacked to bring the contents of the packages up to 1 pound and sold by the United States marshal. On July 13, 1928, the decree was amended to permit sale of the product by the marshal, in bulk or in any manner not contrary to law. On October 15, 1928, the marshal having been unable to find a buyer for the goods, it was ordered by the court that the product be destroyed.

ARTHUR M. HYDE, *Secretary of Agriculture.*

15931. Adulteration of black eye peas. U. S. v. 30 Cases, et al., of Peas. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 22250 to 22258, incl. I. S. No. 14653-x. S. No. 308.)

On December 8, 1927, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 300 cases of peas, remaining in the original unbroken packages in various lots at Miami, West Palm Beach, and Fort Lauderdale, Fla., respectively, alleging that the article had been shipped by the L. H. Hayward Co., from New Orleans, La., on or about October 10, 1927, and transported from the State of Louisiana into the State of Florida, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Starbright Black Eye Peas * * * Crescent City Packing Co. Packers, New Orleans."